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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,074	12/07/2001	Sanjay Ranka	Product Engine-008	6239
50086	7590	03/16/2012	EXAMINER	
LAW OFFICE OF DAVID H. JUDSON			MACASTANNO, MARILYN G	
15950 DALLAS PARKWAY				
SUITE 225			ART UNIT	PAPER NUMBER
DALLAS, TX 75248			3688	
NOTIFICATION DATE	DELIVERY MODE			
03/16/2012	ELECTRONIC			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mail@davidjudson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/017,074	<b>Applicant(s)</b> RANKA ET AL.
	<b>Examiner</b> MARILYN G. MACASIANO	<b>Art Unit</b> 3688

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 15 March 2011.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 5) Claim(s) 69-79 is/are pending in the application.
- 5a) Of the above claim(s) 69-79 is/are withdrawn from consideration.
- 6) Claim(s) \_\_\_\_\_ is/are allowed.
- 7) Claim(s) 74-78 is/are rejected.
- 8) Claim(s) \_\_\_\_\_ is/are objected to.
- 9) Claim(s) 69-79 are subject to restriction and/or election requirement.

#### Application Papers

- 10) The specification is objected to by the Examiner.
- 11) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. This Office Action is in response to the communication filed on March 15, 2011. Claim 74 is amended and new claims 75-78 are added. Claims 74-78 are currently pending and are considered below.

***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/15/2011 has been entered.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 74 and 76-78 are rejected under 35 U.S.C. 102(e) as being anticipated by HERZ et al. (U.S. Pub. No. 2001/0014868) (hereinafter 'HERZ').

Claim 74: HERZ discloses an apparatus, comprising:

    a processor, HERZ teaches a data processing element comprising of one or more processor (paragraph 22);  
  
    a computer memory holding computer program instructions which when executed by the processor comprise, HERZ teaches a data storage element comprising of a plurality of databases (paragraph 22):

    an optimization process programmed to receive message performance information and to generate recommended message allocations, HERZ teaches a shoppers behavior in response to various possible product offers is then predicted by considering how those shoppers with the most similar profiles have behaved with respect to the most similar offers. Some information is solicited when the shopper registers with the shopping service and this information might include demographic information or a survey of purchase interests. Furthermore, the system monitors the shoppers interest in various offers and updates the shopper's profile in the shopper's database and use this improved information to help determine the shopper's preferences for future shopping when presenting selected offers to shoppers (paragraphs 02, 31, 37 and 39);

a segmentation process programmed to segment a target visitor population into a set of segments using one or more templates each comprising one or more cells, wherein the segmentation process compares a set of possible segmentations and uses an algorithm to identify a segmentation that segments the target visitor population such that each cell for a given template belongs to one of the segments and an allocation process programmed to receive the recommended message allocations from the optimization process and to receive the set of segments from the segmentation process and, in response, generating message allocations, HERZ teaches grouping together shoppers, or offers, with similar profiles. A homogeneous group of shoppers formed in this way tends to exhibit a fairly homogeneous response toward a homogeneous group of offers. This is useful in drawing generalizations about future behaviors. The ability to group shoppers or offers by similarity is useful when forming buyers' clubs or determining an appropriate layout for an "electronic mall." Knowing which profiles are similar allows the shopping system to generalize when predicting shoppers' preferences (paragraphs 06, 11, 37, 53 and 177); and

an allocation process programmed to receive the recommended message allocations from the optimization process and to receive the set of segments from the segmentation process and, in response, generating message allocations, HERZ teaches the system for automatic determination of customized prices and promotions and then generating appropriate recommendations based on information in the various databases, wherein the databases contain shoppers' profile which are updated and are

used to determine shoppers' preferences for future shopping (paragraphs 27, 37, 39, 164 and 235).

Claim 76: HERZ further discloses wherein visitors are classified by demographic or psychographic information along a number of attributes, HERZ teaches the system automatically constructs and updates profiles of a plurality of shoppers based on their demographics and their history of shopping behavior, which history includes both their purchases and their requests for, or reactions to, product information. The shoppers profile includes a summary of offers that the shopper has accepted in the past, as well as demographic and psychographic data that aid in identifying similar shoppers (paragraphs 24, 29, 31, 32, 37, 155 and 162).

Claim 77: HERZ further discloses wherein the segmentation process compares the set of possible segmentations to determine which segmentation will lead to a desired visitor response, HERZ teaches shoppers and offers are divided into clusters. See figure 3 for clustering algorithm (paragraphs 155, 164 and 234).

Claim 78: HERZ further discloses wherein the segmentation process divides visitors into segments based on the performance of different messages for different visitors, HERZ teaches each shopper profile is subdivided into a set of long term attributes, such as demographic characteristics, and a set of short term attributes that help to identify the shopper's temporary shopping goals and emotional state, such as the shopper's

textual or multiple choice answers to questions whose answers reflect the shopper's goals and mood (paragraphs 155, 175 and 235).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 75 is rejected under 35 U.S.C. 103(a) as being unpatentable over HERZ et al. (U.S. Pub. No. 2001/0014868) (hereinafter 'HERZ').

Claim 75: HERZ further discloses wherein the algorithm is a greedy algorithm, HERZ is silent in teaching a greedy algorithm, however, HERZ teaches one can work to directly maximize profit by clustering the shoppers by, and providing each cluster of shoppers with a cluster specific offer for each product, adjusting the offers for each cluster of shoppers over time such that the profit within that cluster is increased thereby automatically selecting offers to maximize profit (02, 20, 159, 236, 240 and 241). It would have been obvious to one of ordinary skill in the art at the time the invention was made for HERZ to include clustering of users in order to maximize profit.

***Response to Arguments***

7. Applicant's arguments filed on March 15, 2011, with respect to the rejection of claims 74-78 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

8. The prior art made of record and not relied upon in considered pertinent to applicant's disclosure.

- (a) Gardenswartz et al. (U.S. Patent No. 6,055,573) discloses communicating with a computer associated with a particular consumer, based on the consumer's offline purchase history.
- (b) Gerace (U.S. Patent No. 5,848,396) discloses determining behavioral profile of a computer user.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARILYN G. MACASIANO whose telephone number is (571)270-5205. The examiner can normally be reached on 5/4/9 8:30-6:00 Mon.-Thur. 8:30-5:00 Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on (571)272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/M. G. M./  
Examiner, Art Unit 3688  
03/12/2012

/JOHN G. WEISS/  
Supervisory Patent Examiner, Art Unit 3688